

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

GLENN H. GORTON,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-07-1165-F
)	
C/O WILLIAMS,)	
)	
Defendant.)	

Report and Recommendation

The Plaintiff has filed three new motions for a default judgment.¹ Docs. 22, 29, 31. These motions should be denied.

According to the return of service, the Defendant was served on February 13, 2008.² Doc. 17.³ The Court ordered the filing of an answer or dispositive motion within 60 days of service,⁴ and the summons stated that the Defendant had 60 days to respond.⁵ The 60-day

¹ Two of the motions are captioned as a request for an order “granting relief.” Docs. 22 & 31. But in the body of the two motions, Mr. Gorton seeks entry of a judgment for an alleged default on the part of the Defendant.

² The Plaintiff states again that the Defendant waived service of summons. Doc. 22. This statement is inaccurate, and the Court previously explained the inaccuracy to Mr. Gorton. *See* Doc. 24 n.1. The return reflected mailing of the waiver form to the Defendant but there is no indication that the waiver form was signed or filed. *See id.*

³ The return states that C/O Williams was served through delivery of process to the warden’s executive assistant. Doc. 17. The Court may assume *arguendo* that the service was sufficient.

⁴ Doc. 10, p. 2 ¶ 3.


⁵ Doc. 17.

period will expire on April 13, 2008. Because the Defendant's response is not yet due, the Court should overrule the Plaintiff's motions. *See* Docs. 22, 29, 31.

The parties have the right to object to this report and recommendation. *See* 28 U.S.C. § 636(b)(1) (2000); W.D. Okla. LCvR 72.1. Any such objection must be filed with the Court Clerk for the United States District Court. *See Haney v. Addison*, 175 F.3d 1217, 1219-20 (10th Cir. 1999). The deadline for objections is April 23, 2008. *See* W.D. Okla. LCvR 72.1. The failure to timely object to this report and recommendation would waive one's right to appellate review of the suggested rulings. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This report and recommendation does not terminate the referral.

Entered this 3rd day of April, 2008.



Robert E. Bacharach
United States Magistrate Judge